ASSEMBLY BILL   No. 2758

Introduced by Assembly Member Krekorian

February 22, 2008

An act to amend Section 19103 of the Elections Code, relating to voting systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2758, as introduced, Krekorian. Voting systems.

Existing law requires an exact copy of the source code for all ballot tally software programs certified by the Secretary of State, including all changes or modifications and new or amended versions, to be placed in an approved escrow facility prior to its use. Existing law prohibits the use of a voting system for an election unless an exact copy of the ballot tally software program source codes is placed in escrow. The Secretary of State has reasonable access to the materials placed in escrow, under specified circumstances. The Secretary of State may seek injunctive relief requiring the elections officials, or any vendor or manufacturer of a voting machine, voting system, or vote tabulating device, to comply with these provisions and related regulations.

This bill would require no later than 10 business days after the Secretary of State approves the use of a new or updated voting system, that the vendor of the voting system cause an exact copy of the approved source code for each component of the voting system, including complete build and configuration instructions and related documents for compiling the source code into object code, to be directly transferred and deposited into an approved escrow facility. The Secretary of State is also required to adopt regulations regarding the definition of source code components of a voting system, and requirements for the vendor

to include specified build and configuration instructions and documents in the material deposited in escrow.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1   SECTION 1.   Section 19103 of the Elections Code is amended
2 to read:
3   19103.   (a) ~~An~~ *No later than 10 business days after the*
4 *Secretary of State approves the use of a new or updated voting*
5 *system, the vendor of the voting system shall cause an* exact copy
6 of the *approved* source code for ~~all ballot tally software programs~~
7 ~~certified by the Secretary of State, including all changes or~~
8 ~~modifications and new or amended versions, shall be placed in~~
9 *each component of the voting system, including complete build*
10 *and configuration instructions and related documents for compiling*
11 *the source code into object code, to be transferred directly from*
12 *the United States Election Assistance Commission or the voting*
13 *system testing laboratory, which evaluated the voting system and*
14 *is accredited by the United States Election Assistance Commission,*
15 *and deposited into* an approved escrow facility ~~prior to its use. No~~
16 ~~voting system may be used for an election unless an exact copy~~
17 ~~of the ballot tally software program source codes is placed in~~
18 ~~escrow~~.
19   (b) The Secretary of State shall adopt regulations relating to *all*
20 *of* the following:
21   (1) The definition of sour~~ce codes for ballot tally software~~ *code*
22 *components of a voting system, including source code for all*
23 *firmware and software of the voting system. Firmware and software*
24 *shall include commercial off-the-shelf or other third-party firmware*
25 *and software that is available and able to be disclosed by the*
26 *vendor of the voting system.*
27   (2) Specifications for the escrow facility, including security and
28 environmental specifications necessary for the preservation of the
29 ~~ballot tally software program~~ *voting system* source codes.
30   (3) Procedures for submitting ~~ballot tally software program~~
31 *voting system* source codes.
32   (4) Criteria for access to ~~ballot tally software program~~ *voting*
33 *system* source codes.

1 *(5) Requirements for the vendor to include in the materials*
2 *deposited in escrow build and configuration instructions and*
3 *documents so that a neutral third party may create, from the source*
4 *codes in escrow, executable object codes identical to the code*
5 *installed on approved voting systems.*
6 (c) The Secretary of State shall have reasonable access to the
7 materials placed in escrow, under the following circumstances:
8 (1) In the course of an investigation or prosecution regarding
9 vote counting equipment or procedures.
10 (2) Upon a finding by the Secretary of State that an escrow
11 facility or escrow company is unable or unwilling to maintain
12 materials in escrow in compliance with this section.
13 (3) In order to fulfill the provisions of this chapter related to the
14 *examination and* approval of voting systems.
15 (4) In order to verify that the software on a voting system, voting
16 machine, or vote tabulating device is identical to the approved
17 version.
18 (5) For any other purpose deemed necessary to fulfill the
19 provisions of this code or Section 12172.5 of the Government
20 Code.
21 (d) The Secretary of State may seek injunctive relief requiring
22 the elections officials, *approved escrow facility,* or any vendor or
23 manufacturer of a voting machine, voting system, or vote tabulating
24 device, to comply with this section and related regulations. Venue
25 for a proceeding under this section shall be exclusively in
26 Sacramento County.
27 (e) This section applies to all elections.

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